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United States Patent & Trademark Office; U.S. DEPARTMENT OF COMMERCE

PRE-APPEAL BRIEF REQUEST FOR REVIEW	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed Name _____	Docket Number (Optional) 060091.00011
	Application Number: 09/592,156
	Filed: June 12, 2000
	First Named Inventor: Leif FRIMAN Art Unit: 2617 Examiner: Nghi H. Ly

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

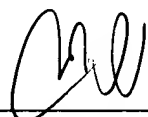
Note: No more than five (5) pages may be provided.

I am the

- ☐ Applicant/Inventor.
☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed

☒ Attorney or agent of record.
Registration No. 54,749

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Telephone number

January 16, 2008

Date

NOTE: Signatures of all of the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Leif FRIMAN et al.

Art Unit: 2617

Application No.: 09/592,156

Examiner: Nghi H. Ly

Filed: June 12, 2000

Attorney Dkt. No.: 060091.00011

For: CHANNEL ALLOCATION METHOD AND DEVICE IN MOBILE SYSTEM AND A
MOBILE SYSTEM BASE STATION

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 16, 2008

Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program guidelines set forth in the July 12, 2005 Official Gazette Notice, Applicants hereby submit this Pre-Appeal Brief Request for Review of the final rejections of claims 1-13 in the above identified application. Claims 1-13 were finally rejected in the Office Action dated October 19, 2007. Applicants hereby appeal these rejections and submit this Pre-Appeal Brief Request for Review.

The final Office Action rejected claims 1-3, 6, 12, and 13 under 35 U.S.C. §103(a) as being unpatentable over Langlet (U.S. Patent No. 5,930,248) in view of Lu (U.S. Patent No. 5,887,256). Applicants submit that there is clear error with regard to the obviousness of at least one element of claims 1, 12, and 13, upon which claims 2 and 3 are dependent.

Applicants respectfully submit that the combination of Langlet and Lu fails to disclose or suggest all of the elements of the present claims. For example, the combination of Langlet and Lu fails to disclose or suggest "arranging, in a mobile system between a base station controller and base stations, telecommunication channels which are available for a plurality of base stations but not permanently allocated to any base station," as recited in claim 1. Similarly, Langlet and Lu do not disclose or suggest "arranging means for arranging base stations and telecommunication channels which are available for a plurality of base stations but not permanently allocated to any base station, between a base station controller and the base stations," as recited in claim 13. The combination of Langlet and Lu also fails to disclose or suggest "a controller configured to allocate in call set-up at least one of said telecommunication channels between the base station controller and the base station to a base station for a call and to transmit a predetermined message indicating the allocated telecommunication channel to the base station to whom the channel is allocated," as recited in claim 12. Therefore, embodiments

of the claimed invention are directed to a method where optional channels which are not permanently allocated to any base station are arranged specifically between a base station controller and a base station. These channels are allocated in call set-up for the base station handling the call.

The final Office Action took the position that Langlet discloses the claimed telecommunication channels (Office Action, page 6). The Office Action specifically cited Column 3, lines 22-26, and Figs. 1 and 6 of Langlet. These sections of Langlet discuss "radio frequency channels" and disclose that "multicast and non-multicast channels" are allocated/reallocated. Multicasting is explained in Column 2, lines 5-10 of Langlet: "Most conventional multicasting techniques employ two or more separated antennas at each base station, to transmit the same messages over the same coverage area. The messages are multicasted either simultaneously or with some offset in time." Clearly, therefore, the multicast channels referred to in Column 3, lines 22-26 of Langlet are radio frequency channels between the base station and the mobile station, and not telecommunication channels between a base station controller and base stations, as recited in the present claims.

Thus, Langlet does not disclose or suggest telecommunication channels, arranged between a base station controller and base stations, which are available for a plurality of base stations but not permanently allocated to any base station. Rather, Langlet merely discloses employing multicasting techniques for extending communication coverage over downlink radio frequency (RF) channels (see Langlet, Column 1, line 65- Column 2, line 10).

Applicants respectfully assert that the multicast and non-multicast channels disclosed in Langlet are not telecommunications channels arranged between a base station controller and base stations. Rather, the multicast and non-multicast channels disclosed in Langlet are RF channels between base stations and mobile stations (see Langlet, Column 3, lines 11-26). Langlet fails to disclose or suggest arranging non-permanently allocated channels between a base station controller and base stations. As such, Langlet does not disclose or suggest "arranging, in a mobile system between a base station controller and base stations, telecommunication channels which are available for a plurality of base stations but not permanently allocated to any base station," as recited in claim 1 and similarly recited in claim 13. As a result, Langlet also fails to disclose a controller configured to allocate in call set-up at least one of said telecommunication channels between the base station controller and the base station, as recited in claim 12.

Furthermore, Lu fails to cure the deficiencies in Langlet outlined above. Lu, like Langlet, fails to disclose or suggest "arranging, in a mobile system between a base station controller and base stations, telecommunication channels which are available for a plurality of base stations but not permanently allocated to any base station," as recited in claim 1 and similarly recited in claim 13, and also fails to disclose a controller configured to allocate in call set-up at least one of said telecommunication channels between the base station controller and the base station, as recited in claim 12.

In particular, Lu, like Langlet, fails to disclose telecommunication channels, between a base station controller and base stations, which are available for a plurality of base stations but

not permanently allocated to any base station. Lu only discloses that each base station controller controls one or more base transceiver stations (Lu, Column 5, lines 40-43). Additionally, Figure 2 of Lu illustrates a line 174 which connects the base station controller to the base transceiver station. However, line 174 is never mentioned in the specification of Lu and no explanation is provided of its function.

Call setup is explained in Column 15, lines 20-32 of Lu. Lu does not disclose any type of channel activation of permanently unallocated channels (available for several base stations) between the base station controller and the base station. In fact, unallocated channels do not exist in Lu. Instead, it is only disclosed that "a channel activate message is sent from the BSC to the BTS which essentially asks the BTS to activate the selected channel" (Lu, Column 15, lines 30-32). In other words, according to Lu, it is sufficient to select an existing permanently allocated channel and to activate it. Therefore, Lu fails to disclose or suggest the telecommunication channels of the present claims. Accordingly, the combination of Langlet and Lu fails to disclose or suggest all of the elements of claims 1, 12, and 13. Applicants submit, therefore, that the final rejections are clearly erroneous and without basis.

Claims 2 and 3 are dependent upon claim 1. Thus, claims 2 and 3 should be allowed for at least their dependence upon claim 1, and for the specific limitations recited therein.

Claims 4 and 7-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Langlet in view of Lu and Kanai (U.S. Patent No. 6,195,566). Applicants submit that there is clear error with regard to the obviousness of at least one element of claims 4, 9, and 11, upon which claims 7, 8, and 10 are dependent.

Applicants respectfully submit that the combination of Langlet, Lu and Kanai fails to disclose or suggest all of the elements of claims 4, 9 and 11 and that the final rejections are therefore clearly improper and without basis. For instance, Langlet, Lu and Kanai fail to disclose or suggest switching the base station transceiver units onto a particular channel of the plurality of optional telecommunication channels between the base station controller and the base stations, as recited in claim 4 and similarly recited in claim 9.

The Office Action acknowledged that Langlet and Lu fail to disclose or suggest the claimed switching of the base station transceiver units onto a particular channel of the plurality of optional telecommunication channels between the base station controller and the base stations. However, the Office Action cited Kanai as allegedly disclosing this element of the claims (Office Action, pages 9-10). Applicants respectfully disagree. The switch 105 in Fig. 1 of Kanai is located on the antenna 112 side of the transceiver units 104 and therefore cannot be used to connect a transceiver unit 104₁-104₄ to a selected channel on the communication path between the base station and the base station controller (Kanai, Figure 1). Therefore, the switch 105 of Kanai does not make it possible to switch the transceiver units 104₁-104₄ to a particular channel of a plurality of optional channels between the base station controller and base stations.

Accordingly, Kanai, like Langlet, does not disclose or suggest switching a particular transceiver unit onto the telecommunication channel between the base station controller and the

base station. Lu also fails to cure these deficiencies in Langlet and Kanai. Thus, Langlet, Lu and Kanai, whether considered individually or combined, fail to disclose or suggest switching the base station transceiver units onto a particular channel of the plurality of optional telecommunication channels between the base station controller and the base stations, as recited in claim 4 and similarly recited in claim 9.

Claims 5-8 and 10 are dependent upon claims 4 and 9, respectively. Consequently, claims 5-8 and 10 should be allowed for at least their dependence upon claims 4 and 9, and for the specific limitations recited therein.

Furthermore, the combination of Langlet, Lu and Kanai fails to disclose or suggest “control means which are arranged to allocate in call set-up at least one of said telecommunication channels between the base station controller and the base stations to a base station for a call and which are arranged to transmit a predetermined message indicating the allocated telecommunication channel to the base station to whom the channel is allocated,” as recited in claim 11. The Office Action acknowledged that Langlet fails to disclose this element of claim 11. However, the Office Action cited Kanai as allegedly curing this deficiency in Langlet. Applicants respectfully disagree.

In fact, the Office Action does not appear to cite any specific element of Kanai as corresponding to the control means of the claimed invention. Rather, the Office Action stated that “those skilled in the art will appreciate that Kanai could be modified such that the station controller (see fig. 1, BSC 102) comprises control means (see fig. 1, Controller 130) without deviating from the scope and spirit of Kanai’s invention” (Office Action, pages 9-10). The Office Action does not provide any motivation or suggestion for modifying the station controller of Kanai to include the control means of the present invention. The Office Action merely makes a conclusory statement that it would have been obvious to a person of ordinary skill in the art. As stated by the Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007), the analysis supporting a rejection under 35 U.S.C. § 103 should be made explicit. The court stated that “rejections on obviousness cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” (see *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396; see also MPEP 2141). Applicants submit that the Office Action has not provided any articulated reasoning as to why a person of skill in the art would be motivated to modify Kanai to yield the control means of the claimed invention.

Applicants respectfully assert that there would not be any motivation for a person of skill in the art to modify the station controller of Kanai to transmit the claimed message to the base station, as the base station of Kanai does not include any switching means which would make it possible for the base station to switch to such a channel between the base station controller and the base station as indicated in the message. Lu also fails to cure these deficiencies in Langlet and Kanai.

Therefore, Applicants respectfully submit that the Office Action has failed to establish a prima facie case for obviousness, as the combination of Langlet, Lu and Kanai fails to disclose or

suggest all of the elements of claim 11. As such, Applicants submit that the final rejections were in error and should be withdrawn.

Claim 5 was rejected under 35 U.S.C. §103(a) as being anticipated by Langlet in view of Kanai and Lu, and further in view of Tiedemann (U.S. Patent No. 5,987,326) and Choi (U.S. Patent No. 6,724,740). Claim 5 is dependent upon claim 4. As discussed above, Langlet, Lu and Kanai fail to disclose or suggest all of the limitations of claim 4. Furthermore, Tiedemann and Choi fail to cure the deficiencies in Lu and Kanai with respect to claim 4. Thus, the combination of Langlet, Kanai, Tiedemann, and Choi fails to disclose or suggest all of the elements of claim 5.

For at least the reasons discussed above, Applicants respectfully submit that the present claims recite subject matter which is neither disclosed nor suggested by the cited prior art, and that, therefore, the final rejections are clearly erroneous and without basis. It is therefore respectfully requested that all of claims 1-13 be allowed, and this application passed to issue. Reconsideration and withdrawal of the rejections, in view of the clear errors in the Office Action, is respectfully requested. In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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